

1 HOUSE BILL NO. 264

2 INTRODUCED BY R. FITZGERALD, J. HAMILTON

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS FOR PASSING EMERGENCY
 5 VEHICLES; REVISING THE SPEED RULES FOR PASSING EMERGENCY AND ~~POLICE-LAW~~
 6 ENFORCEMENT VEHICLES; INCLUDING TOW TRUCKS AS VEHICLES TO MOVE OVER FOR; CREATING
 7 THE OFFENSE OF RECKLESS ENDANGERMENT OF EMERGENCY PERSONNEL; DESIGNATING
 8 RECKLESS ENDANGERMENT OF HIGHWAY WORKERS AND RECKLESS ENDANGERMENT OF
 9 EMERGENCY PERSONNEL AS SERIOUS TRAFFIC VIOLATIONS; AND AMENDING SECTIONS 61-8-346,
 10 61-8-715, AND 61-8-803, MCA."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
 14 **Section 1.** Section 61-8-346, MCA, is amended to read:

15 **"61-8-346. Operation of vehicles on approach of authorized emergency vehicles or ~~police-LAW~~**
 16 **ENFORCEMENT vehicles -- approaching stationary emergency vehicles or ~~police-LAW ENFORCEMENT~~**
 17 **vehicles -- reckless endangerment of emergency personnel.** (1) Upon the ~~immediate~~ approach of an
 18 authorized emergency vehicle making use of audible and visual signals meeting the requirements of 61-9-402
 19 or of a ~~police-LAW ENFORCEMENT~~ vehicle properly and lawfully making use of an audible signal only, the operator
 20 of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as
 21 close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and
 22 remain in that position until the authorized emergency vehicle or ~~police-LAW ENFORCEMENT~~ vehicle has passed,
 23 except when otherwise directed by a police officer or highway patrol officer.

24 (2) This section does not relieve the driver of an authorized emergency vehicle or ~~police-LAW~~
 25 ENFORCEMENT vehicle from the duty to drive with due regard for the safety of all persons using the highway.

26 (3) ~~Except as provided in subsection (4), upon~~ On approaching and passing a stationary authorized
 27 emergency vehicle or ~~police-LAW ENFORCEMENT~~ vehicle, or tow truck that is displaying visible signals of flashing
 28 or rotating amber, blue, red, or green lights, or any temporary sign advising of an emergency scene or accident

1 ahead, the operator of the approaching vehicle shall:

2 ~~(a) (a) reduce the vehicle's speed to a reasonable speed appropriate to the road and conditions that~~
 3 ~~is no faster than half the ordinary posted speed limit, or reduce the vehicle's speed to the temporarily posted~~
 4 ~~speed if one has been posted~~ CAUTIOUSLY AND IN A CAREFUL MANNER REDUCE THE VEHICLE'S SPEED TO A
 5 REASONABLY LOWER AND SAFE SPEED APPROPRIATE TO THE ROAD AND VISUAL CONDITIONS OR TO THE TEMPORARILY
 6 POSTED SPEED LIMIT, BUT TO A CAREFUL AND PRUDENT SPEED IF A TEMPORARILY POSTED SPEED HAS NOT BEEN
 7 POSTED;

8 (b) proceed with caution; and,

9 (c) if possible considering safety and traffic conditions;

10 (i) move to a lane that is not adjacent to the lane in which the authorized emergency vehicle or police
 11 LAW ENFORCEMENT vehicle, or tow truck is located or;

12 (ii) move as far away from the authorized emergency vehicle or police LAW ENFORCEMENT vehicle, or
 13 tow truck as possible; or

14 (iii) follow flagger instructions or instructions on sign boards; or

15 ~~(b) if changing lanes is not possible or is determined to be unsafe, reduce the vehicle's speed,~~
 16 ~~proceed with caution, and maintain a reduced speed, appropriate to the road and the conditions, through the~~
 17 ~~area where the authorized emergency vehicle or police vehicle is stopped.~~

18 (4) ~~Upon approaching a stationary authorized emergency vehicle or police vehicle that is displaying~~
 19 ~~visible signals of flashing or rotating amber, blue, red, or green lights on a public highway with a posted speed~~
 20 ~~limit of 50 miles per hour or greater when driving in a lane that is directly next to the emergency vehicle or~~
 21 ~~police vehicle, the operator of the approaching vehicle shall reduce the vehicle's speed by at least 20 miles per~~
 22 ~~hour below the posted speed limit.~~ An operator of a vehicle who violates subsection (3) commits the offense of
 23 reckless endangerment of emergency personnel."

24

25 **Section 2.** Section 61-8-715, MCA, is amended to read:

26 "**61-8-715. Reckless driving -- reckless endangerment of highway workers -- reckless**
 27 **endangerment of emergency personnel -- penalty.** (1) Except as provided in subsection (2), a person
 28 convicted of reckless driving under 61-8-301(1)(a) or (1)(b) or convicted of reckless endangerment of a

1 highway worker under 61-8-301(4), or convicted of reckless endangerment of emergency personnel under 61-
 2 8-346 shall be punished upon a first conviction by imprisonment for a term of not more than 90 days, a fine of
 3 not less than ~~\$25~~ \$100 or more than ~~\$300~~ \$500, or both. On a second or subsequent conviction, the person
 4 shall be punished by imprisonment for a term of not less than 10 days or more than 6 months, a fine of not less
 5 than ~~\$50~~ \$500 or more than ~~\$500~~ \$1,000, or both.

6 (2) A person who is convicted of reckless driving under 61-8-301 or convicted of reckless
 7 endangerment of emergency personnel under 61-8-346 and whose offense results in the death or serious
 8 bodily injury of another person shall be punished by a fine in an amount not exceeding \$10,000, incarceration
 9 for a term not to exceed 1 year, or both."

10

11 **Section 3.** Section 61-8-803, MCA, is amended to read:

12 **"61-8-803. Suspension of commercial driver's license -- serious traffic violations.** (1) If the
 13 department receives notice from a court or another licensing jurisdiction that a person holding or required to
 14 hold a commercial driver's license has been convicted of more than one serious traffic violation in separate
 15 incidents within a 3-year period, the department shall suspend the person's commercial driver's license:

16 (a) for 60 days upon receipt of notice of the second conviction; or

17 (b) for 120 days upon receipt of notice of the third or subsequent conviction.

18 (2) For purposes of this section, "serious traffic violation" means conviction, when operating a
 19 commercial motor vehicle, of:

20 (a) speeding 15 or more miles an hour above a posted speed limit;

21 (b) reckless driving, reckless endangerment of a highway worker, or reckless endangerment of
 22 emergency personnel;

23 (c) improper or erratic traffic lane changes;

24 (d) following too closely;

25 (e) a violation of a state law or local ordinance relating to the operation of a motor vehicle, excluding a
 26 parking, weight, or equipment violation, that arises in connection with a fatal accident;

27 (f) operating a commercial motor vehicle without a commercial driver's license;

28 (g) operating a commercial motor vehicle without a commercial driver's license in one's possession or

1 refusing to display a commercial driver's license upon request;

2 (h) operating a commercial motor vehicle without the proper class of commercial driver's license or
3 endorsements, or both, for the specific vehicle type or types being operated or for the passengers or type or
4 types of cargo being transported; or

5 (i) using a mobile device to send text messages while operating a commercial motor vehicle in
6 violation of a state or local law or ordinance on motor vehicle traffic control.

7 (3) A person is considered to have committed a second or subsequent serious traffic violation if less
8 than 3 years have passed between the date of an offense that resulted in a prior conviction and the date of the
9 offense that resulted in the most recent conviction."

10 - END -